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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,363	02/19/2004	Carole A. Lepilleur	200CT015E	5628
37535	7590	11/25/2005	EXAMINER	
NOVEON IP HOLDINGS CORP. 9911 BRECKSVILLE ROAD CLEVELAND, OH 44141-3247			TUCKER, ZACHARY C	
			ART UNIT	PAPER NUMBER
			1624	

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/782,363

Applicant(s)

LEPILLEUR ET AL.

Examiner

Zachary C. Tucker

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Prior to setting forth the restriction requirement, it is pointed out that the claims are drawn to patentably distinct products. The products rely upon compounds which differ in structure to such an extent and require non-coextensive searches to such an extent that they are considered separately patentable. Therefore, the restriction will be set forth for each of the various groups, irrespective of the format of the claims.

- I. Claims 1-9 (in part), drawn to a vinyl ester toughener wherein the toughener polymer is a trithiocarbonate compound of the formula X<sup>1</sup>.
- II. Claims 1-9 (in part), drawn to a vinyl ester toughener wherein the toughener polymer is a dithiocarbonate compound of the formula H<sup>1</sup>.
- III. Claims 1-9 (in part), drawn to a vinyl ester toughener wherein the toughener polymer is a dithiocarbamate compound of the formula F<sup>1</sup> or G<sup>1</sup>.
- IV. Claims 10-15 (in part), drawn to a blend of vinyl ester resins comprising toughener from Group I.
- V. Claims 10-15 (in part), drawn to a blend of vinyl ester resins comprising toughener from Group II.
- VI. Claims 10-15 (in part), drawn to a blend of vinyl ester resins comprising toughener from Group III.
- VI. Claims 26-33 (in part), drawn to a blend of thermosettable resin and a toughener polymer, wherein the toughener polymer is one from Group I.

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- VII. Claims 26-33 (in part), drawn to a blend of thermosettable resin and a toughener polymer from Group II.
- VIII. Claims 26-33 (in part), drawn to a blend of thermosettable resin and a toughener polymer from Group III.
- IX. Claims 34-37 (in part), drawn to crosslinked compositions made from compositions comprising a toughener from Group I.
- X. Claims 34-37 (in part), drawn to crosslinked compositions made from compositions comprising a toughener from Group II.
- XI. Claims 34-37 (in part), drawn to crosslinked compositions made from compositions comprising a toughener from Group III.

Claims 16-25 refer to "the crosslinked composition of claim \_\_\_\_" wherein the claim from which those claims depend is not drawn to a crosslinked composition, so those claims have not been included in this Requirement because they lack antecedent basis. Upon amendment, then those claims will be assigned a Group.

The inventions are distinct, each from the other because:

Inventions I-XI are unrelated chemically. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have **different modes of operation**, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation; the three primary types of vinyl ester toughener substances have different chemical structures, as would a crosslinked composition made from those substances would have a chemical structure different from one another as well.

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Because these inventions are distinct for the reasons given above and the search required for Group I is not required for any other of the Groups, restriction for examination purposes as indicated is proper.

Should one of Groups I, II or III be elected, and subsequently found allowable, then the corresponding Groups from IV-IX will be eligible for rejoinder. At such time, the Requirement for Restriction between the allowed Group and the rejoined Groups would be withdrawn.

### ***Conclusion***

Any inquiry concerning this communication should be directed to Zachary Tucker whose telephone number is (571) 272-0677. The examiner can normally be reached Tuesday-Thursday from 8:00am to 4:30pm or Monday from 6:00am to 1:30pm. If Attempts to reach the examiner are unsuccessful, contact the examiner's supervisor, James O. Wilson, at (571) 272-0661.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

zt

A handwritten signature in black ink, appearing to be "Zachary Tucker", written over the "zt" text.